

of the total channel capacity of a DBS satellite. See Notice at 13, ¶30. However, any such non-conforming operations would violate the Commission's decade-long policy of promoting DBS as a competitive program delivery service to consumers. Indeed, it is ironic that at the same time that the Commission proposes to impose spectrum aggregation and conduct restrictions on DBS programmers to promote additional video competition, it should be considering other steps that would reduce the extent of DBS competition.

At some time in the future the record may allow the Commission to decide that more flexibility in the use of DBS is appropriate. However, that time is not now, when competitive DBS options are beginning to establish themselves after a long wait by consumers. This is an issue for another day, a more complete record based on additional DBS experience, and a less expedited process.

III. THE COMMISSION SHOULD MAKE CLEAR THAT THE JANUARY AUCTION PROCEDURES ARE NOT A PRECEDENT FOR FUTURE SATELLITE LICENSING.

GE Americom will not respond to the specific proposals regarding auction mechanics set out in the Notice. As a general matter they appear reasonable for the unique purpose of auctioning the Advanced channels in January.

However, that is not to say that the same auction procedures would be appropriate for future DBS auctions, let alone other auctions in the satellite area, were the Commission to decide that such auctions are appropriate. In fact, it is

more likely that different procedures would ensure a fairer and more efficient result in those future circumstances.

GE Americom therefore requests that the Commission expressly limit any auction procedures adopted here to the specific context of the January event. If the Commission later decides that auctions are appropriate in other satellite contexts -- an action GE Americom hopes will never come to pass -- there would be time enough to decide the auction procedures that would best serve the public interest. The decisions made in this hurried proceeding to meet the January deadline should not be a precedent for the future.

CONCLUSION

GE Americom hopes that the Commission will rethink its proposal to substantially rewrite its long-standing DBS policies on an expedited schedule at the same time that it is trying to implement the auction of the Advanced channels. The more prudent and reasonable approach would be to treat the January auction as the unique and unprecedented event that it is, develop auction mechanics specifically for that process, and defer other DBS policy questions to a later date that permits development of a more complete record, and more careful consideration by the Commission itself.

If the Commission nevertheless moves forward with new rules, it should do so with sensitivity, acting as narrowly as possible. In particular, it should not adopt attribution and ownership rules that would reach parties who

neither distribute DBS programming to the public nor control such DBS programmers. GE Americom disagrees that spectrum aggregation and conduct rules are needed. But if they nevertheless are adopted, they should apply only to DBS programmers. They should not restrict either parties with non-controlling relationships with such programmers, or DBS space segment providers who do not themselves distribute video to the public.

Similarly, if the Commission goes forward with the January auction, it should take express care not to prejudice the larger question of whether auctions are appropriate outside this unique context. That issue should be addressed elsewhere, including the pending International Bureau inquiry on satellite licensing, where a broader range of parties can participate, and more time exists for full consideration of the special problems with auctions in the satellite context.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Patricia A. Green, hereby certify that on this 20th day of November, 1995, the foregoing "Comments of GE American Communications, Inc." were served by hand on the following:

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